

GAHC010071882024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/930/2024

IBRAHIM ALI AND 3 ORS.
S/O PHANIR ALI, R/O VILL- BADULIPARA, SAUKUCHI, BAKSA, PIN-781333,
ASSAM

2: HALAL ALI
S/O JAINAL ALI
R/O VILL- BADULIPARA
SAUKUCHI
BAKSA
PIN-781333
ASSAM

3: MOHIBUR RAHMAN
S/O ABUL ALI
R/O VILL- BADULIPARA
SAUKUCHI
BAKSA
PIN-781333
ASSAM

4: MAJAKKIR HAQUE
S/O ABUL ALI
R/O VILL- BADULIPARA
SAUKUCHI
BAKSA
PIN-781333
ASSA

VERSUS

THE STATE OF ASSAM
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

Advocate for the Petitioner : MR. A SARMA

Advocate for the Respondent : PP, ASSAM

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA**

ORDER

Date : 16.07.2024

Heard Mr. A. Sarma, learned counsel for the petitioners and Mr. P. Borthakur, learned Addl. Public Prosecutor appearing on behalf of the State respondent.

This is an application under Section 438 Cr.P.C. praying for anticipatory bail by the petitioners namely (1) **Ibrahim Ali**, (2) **Halal Ali**, (3) **Mohibur Rahman** and (4) **Majakkir Haque** in connection with Barama P.S. Case No. 19/2024 under Sections 333/ 353/ 34 IPC read with Section 177 of the MV Act.

The case diary as called for is received and perused.

Head both sides.

Mr. Sarma, learned counsel for the petitioners has submitted that the petitioners are innocent and they are not committed any offence as alleged in the FIR. The actual fact is that the enforcement checker chased a D.I. vehicle for checking and during chasing the vehicle the enforcement checker met with an accident and one bicycle ruder was injured and after the incident, the enforcement checker fled away from the place of occurrence. A public mob chased the enforcement checker when he fell down and sustained injury. The learned counsel for the petitioners further submits that there is no such incident had happened as alleged in the F.I.R. However, the petitioners are ready and willing to cooperate with the investigation, if they are granted the privilege of pre-arrest bail.

In this context, Mr. Borthakur, the learned Addl. Public Prosecutor has submitted that there are sufficient incriminating materials available against the petitioners and the police during investigation also took some photographs from which it is seen that the enforcement checker was attacked by a mob when the present petitioners were present. From the attack

of the said mob, the enforcement checker sustained grievous injuries on his person which is available in the case diary. Mr. Borthakur further submits that considering the nature of the offence, it is not a fit case to extend the privilege of pre arrest bail to the petitioners.

After hearing the submissions of the learned counsel for both the parties and on perusal of the case diary, it is seen that the I.O. has collected sufficient incriminating materials against the present petitioners and the present petitioners were available in the spot at the time of alleged incident. The available documents as well as the photographs collected by the I.O. it is also seen that the mob attacked the enforcement checker in which the enforcement checker sustained grievous injury on his persons. More so, the statement recorded from the victim it is also seen that the mob attacked the enforcement checker while he was chasing the vehicle which was overloaded for more than 40 kgs of goods and for attack of the enforcement checker, one official namely Sri Chandan Brahma was also sustained grievous injuries.

In view of the above, considering the nature of the alleged offences, I do not find it to be a fit case to extend the benefit of pre-arrest bail to the petitioners at this stage. Accordingly, the prayer for pre-arrest bail stands rejected.

Return the case diary.

The bail application is dismissed.

JUDGE

Comparing Assistant